

IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR THE COUNTY OF KING

CHUCK PILLON,

Plaintiff, Pro Se

vs.

KING COUNTY WASHINGTON,

Defendant.

No. 20-2-12287-4 KNT

DEFENDANT'S MOTION TO
DISMISS

I. RELIEF REQUESTED

In accordance with Civil Rules 12(b)(6), Defendant King County hereby requests that this Court dismiss Plaintiff's claims for failure to state a claim.

II. FACTS

On August 2, 2020 Plaintiff filed a Complaint for Damages against King County alleging that the Clerk's Office accepted funds from him towards legal financial obligations owed under King County Superior Court No. 16-1-05983-6 KNT¹ and that the origin of such funds is his pension. *See* Complaint. Plaintiff alleges that the Clerk's Office improperly collected such funds in violation of RCW 6.15.020. Plaintiff's complaint acknowledges that the funds in question were not paid via a garnishment and instead were a monthly payment schedule set by

¹ In one of his attachments to the complaint, Mr. Pillon inserts a 1 instead of a 6 as the last digit in the case number. This appears to be a scrivener's error as the correct case number is located in his other attachments.

DEFENDANT'S MOTION TO DISMISS

- 1

1 the clerk. Plaintiff alleges that he has been receiving funds through his law enforcement pension
2 (LEOFF) since 1988 and that he ran out of private funds around the same time that the Clerk's
3 office increased his monthly payment schedule from \$300 to \$1000.²

4 **III. ISSUE**

5 Should this Court dismiss Plaintiff's action for failure to state a claim/judicial immunity,
6 and failure to accomplish service?

7 **IV. EVIDENCE RELIED UPON**

8 Defendants rely only on the pleadings and records in this matter. The Court may
9 also take judicial notice of undisputed orders entered in the criminal case that is the underlying
10 basis for this suit.

11 **V. Argument**

12 **A. Plaintiff has failed to state any plausible cause of action against Defendant.**

13 CR 12(b)(6) authorizes a court to dismiss an action for failure to state a claim on which
14 relief can be granted. Dismissals for failure to state a claim are to be granted sparingly, as they
15 are considered a drastic remedy and effectively deny a Plaintiff his or her day in court. *Collins v.*
16 *Lomas and Nettleton Co.*, 29 Wn.App. 415, 628 P.2d 855 (Div. 1 1981). For purposes of
17 analyzing a Defendant's motion under 12(b)(6), all of the factual allegations in the complaint
18 will be accepted as true. *Dennis v. Heggen*, 35 Wn.App. 432, 667 P.2d 131 (Div. 1 1983). A
19 motion made upon CR 12(b)(6) may only be granted upon a showing that there are no facts
20 which Plaintiff could prove, consistent with the complaint, which would entitle the Plaintiff to
21 relief on the claim. *McCurry v. Chevy Chase Bank*, 169 Wn.2d 96, 101, 233 P.3d 861 (2010).

23 ² The court docket in the criminal case reveals that restitution was initially ordered on November
30, 2018.

1 The purpose of the rule is to weed out “complaints, where, even if what the Plaintiff alleges is
2 true, the law does not provide a remedy.” *Id.* Plaintiff’s complaint alleges violations of RCW
3 6.15.020. First, no statute exempts pension funds from being accepted as payment of a
4 judgment. *See* RCW 6.15.020, RCW 41.26.053. Rather, the protections that exist under these
5 statutes exempt state pension funds from being forcibly garnished. *Id.* However, even assuming
6 the protections were somehow applicable the Washington Supreme Court has explicitly held that
7 such alleged actions do not violate Washington law. *Anthis v. Copland*, 173 Wn. 2d 752, 756-66,
8 270 P.3d 574 (2012). In the *Anthis* case, the Supreme Court explained that once funds from a
9 state pension are deposited into an individual’s personal accounts, they are no longer exempt
10 from garnishment. *Id.* at 766. As Plaintiff’s funds were not garnished from a LEOFF or other
11 eligible state pension account, Plaintiff cannot state any basis for relief.³

12 VI. Conclusion

13 Defendant respectfully requests that this Court dismiss Plaintiff’s suit for failure to state a
14 claim.

15 DATED this 14th day of October, 2020 at Seattle, Washington.

16
17 DANIEL T. SATTERBERG
King County Prosecuting Attorney

18 By: /s/ Samantha Kanner
19 SAMANTHA KANNER, WSBA #36943
Senior Deputy Prosecuting Attorney
20 500 Fourth Ave., Suite 900
Seattle, WA 98104
21 Samantha.Kanner@kingcounty.gov
Attorneys for King County

22 ³ It is Defendant’s belief that Plaintiff will attempt to contest the underlying order for restitution
23 from the criminal case in response to this motion. Such attempt to relitigate that issue must be
barred via *res judicata* and/or collateral estoppel as any such litigation on that issue must be and
has been resolved in the criminal case.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

5
6
7

8
9

10

12
13